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Southern District of New York

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January 10, 2025

By ECF

The Honorable Denise L. Cote
United States District Judge
Southern District of New York
500 Pearl Street
New York, New York 10007

Re: *American Civil Liberties Union Foundation v. United States Immigration and Customs Enforcement, et al.*, No. 24 Civ. 7444 (DLC)

Dear Judge Cote:

This Office represents Defendants United States Immigration and Customs Enforcement (“ICE”), United States Department of Homeland Security (“DHS”), United States Customs and Border Protection (“CBP”), and United States Department of Justice (“DOJ”) in the above-named action. Plaintiff American Civil Liberties Union Foundation brings suit pursuant to the Freedom of Information Act, 5 U.S.C. § 552 (“FOIA”). The parties write jointly, pursuant to the Court’s order of December 5, 2024, ECF No. 34, to provide a status update regarding each agency’s processing of the FOIA requests at issue.

ICE. ICE made its first release of responsive, non-exempt records on November 19, 2024. Plaintiff has since inquired about contracts that may be responsive to its request pursuant to a lead from publicly-available sources. ICE is considering this inquiry. Plaintiff has also inquired about FOIA exemptions applied to a spreadsheet in ICE’s November 19, 2024 production. ICE will reprocess this spreadsheet with fewer redactions and anticipates completing this reprocessing by the parties’ next joint status report.

DHS. On November 26, 2024, DHS produced 21 responsive, non-exempt pages related to one of Plaintiff’s two FOIA requests. DHS has located no other records responsive to that request. As to the second FOIA request, DHS’s search for records yielded 5,715 potentially responsive pages. DHS has reviewed approximately 850 of those pages and determined that they are all non-responsive. DHS is in the process of reviewing the remainder of the pages for responsiveness; to the extent any responsive records are located, they will be processed and non-exempt portions thereof produced. DHS proposes to process the remaining documents at a rate of 400 pages per month, and the parties are discussing an appropriate rate.

CBP. CBP previously stated to Plaintiff that “CBP can begin producing by the end of December,” but the agency was not able to complete its search by that time. CBP now anticipates that it will complete its search by February 10, 2025, and it will endeavor to process 500 pages per month thereafter. If CBP identifies more than 500 total pages for processing, it will prioritize processing of documents responsive to Part 2 of Plaintiff’s FOIA request, followed by Part 3, followed by Part 1.

DOJ, Office of Legal Counsel (“OLC”). OLC has completed its search and has identified 14 pages of potentially responsive records. To streamline OLC’s production, Plaintiff has agreed that DOJ can produce only a portion of one of these documents, and that Plaintiff will determine on reviewing that portion whether Plaintiff will seek the document in its entirety. OLC has transmitted some or all of the remaining pages to three separate entities for consultation. Because of the necessary consultations, OLC is not yet able to provide a date certain for its final production; however, OLC will complete processing on any documents once consultations on those documents are complete (and even if consultations on other documents remain outstanding).

The parties request permission to submit another joint status report on or before February 14, 2025.

We thank the Court for its consideration of this request.

Respectfully,

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